

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

Bail Appl..No. 4057 of 2007()

CR.NO.75 OF 2007 OF CHEEMENI POLICE STATION

PETITIONER/ACCUSED

VINAYAN P.V., AGED 33 YEARS,
S/O.AMBUKUNHU, POTHERA VALAPPIL,
MATHIL P.O., KANNUR DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.K.P.HARISH

RESPONDENTS: COMPLAINANT & STATE

1. STATE - REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
2. THE STATION HOUSE OFFICER,
(CR.NO.75 OF 2007 OF CHEEMENI POLICE STATION),
KASARAGOD DISTRICT.

BY PUBLIC PROSECUTOR SRI.P.N.SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 05/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

B.A.No.4057 of 2007

Dated this the 5th day of July 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under Sections 498A and 306 I.P.C. The wife of the petitioner had committed suicide on 12/6/2007. It is the allegation of the prosecution that the petitioner had committed suicide because of the acts of cruelty of the petitioner, her husband. The petitioner had allegedly fallen in love with another girl and that appears to be the cause for the commission of the suicide.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He is not responsible for the commission of suicide by his wife. There is nothing to indicate that he had known, anticipated or intended the unfortunate consequence of suicide of his wife. When the consequence is not known, anticipated or contemplated by the petitioner, he cannot be alleged to have abetted the happening of that consequence, urges the learned counsel for the petitioner.

3. I find merit in the submission of the learned counsel for the petitioner on that aspect. Prima facie, I am satisfied that the petitioner should not be arrested and detained in custody for the offence alleged under Section 306 I.P.C. But regarding the allegations under Section 498A I.P.C, I find absolutely no justification in the prayer for invocation of the jurisdiction under Section 438 Cr.P.C. This, I am satisfied, is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and seek bail for the offence under Section 498A I.P.C. Appropriate directions can be issued in so far as the allegation under Section 306 I.P.C is concerned.

3. In the result, this petition is dismissed with the observation that the petitioner shall be at liberty to surrender before the investigating officer or the learned Magistrate having jurisdiction and then seek bail. Such application for regular bail, needless to say, must be considered by the learned Magistrate on merits, in accordance with law and expeditiously.

4. I may further direct that such application for bail shall be considered by the learned Magistrate, as if no allegation has been raised under Section 306 I.P.C.

(R.BASANT, JUDGE)

jsr

True Copy//

PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007